

REMARKS

This Amendment and the following remarks are intended to fully respond to the Final Office Action mailed May 4, 2007 (hereinafter the “*Action*”). In that Action, claims 1-4, 6, 7, 9-12, and 25 were rejected under 35 U.S.C. §102(b) as being anticipated by Hirsch et al (WO 97/24682) (hereinafter “*Hirsch*”) and claims 5, 8, 14, 16, 17, 19-24 and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Hirsch* in view of Rosse (USPN 6,640,212) (hereinafter “*Rosse*”).

In this response, claims 1, 4, 8, 12 and 25 have been amended, claims 2, 3, 5, 9-11, 13-24 and 26 have been canceled and no claims have been added. Claims 1, 4, 6-8, 12 and 25 are now pending in this application, where claim 1 is an independent claim and all other pending claims depend from claim 1. Applicant has canceled the claims without prejudice in an attempt to comply with the rules going into effect on November 1, 2007 (72 Fed. Reg. 46716 (Aug. 21, 1007) (Claims and Continuations Final Rule) and reserves the right to amend the application at a later time to claim any subject matter previously, but not currently, claimed.

Claim Rejections – 35 U.S.C. § 102

Claims 1-4, 6, 7, 9-12, and 25 are rejected under 35 U.S.C. §102(b) as being anticipated by Hirsch et al (WO 97/24682) (hereinafter “*Hirsch*”). Of these, claims 1, 4, 6 7, 12 and 25 are currently pending, while claims 1, 4, 12 and 25 have been amended above. Applicants respectfully submit that the claims were previously allowable over the cited art but that the amendments further clarify embodiments of the invention, such that the claims in their current form are allowable over the cited art.

Amended Claim 1 recites a method of scheduling a plurality of patients and a plurality of employees in a health care environment, wherein at least two patients receive treatment during a predetermined time period comprising, *inter alia*, scheduling employees in response to the distributed employee time requirements. The claim further recites a process of dividing the day

into intervals and the scheduling employees in providing care to patients based on requirements in time intervals. Importantly, the method of claim 1 (and all its dependent claims) involve displaying the scheduling information on a per-interval basis such that a user can quickly and easily determine peaks and valleys in scheduling employees and patients. Such a determination allows the user to modify patient schedules, thereby reducing the peaks and valleys and effectively improving scheduling efficiency. Furthermore, the scheduling process also involves rounding up an amount of employees scheduled when a determination by the scheduling module results in a fractional number of employees needed to address the needs of the plurality of patients, and counting employees at the fractional number based at least upon the employees' training resulting in scheduling employees in non-whole number increments.

In contrast and as stated by the Examiner, *Hirsch* does not disclose rounding up an amount of employees scheduled when a determination by the scheduling module results in a fractional number of employees needed to address the needs of the plurality of patients. (*See Action* page 8, lines 18-20.) In addition, *Hirsch* at least does not disclose counting employees at the fractional number based at least upon the employees' training because *Hirsch* is silent regarding this recitation. For example, *Hirsch* merely discloses allowing a surgeon to select a time interval for starting a medical procedure. (*See Hirsch* page 15, lines 21-22.) Accordingly, *Hirsch* discloses assigning a whole person (the surgeon) to a time interval. Consequently, *Hirsch* fails to disclose counting employees at fractional increments.

Hirsch further does not anticipate the claimed invention because *Hirsch* at least does not disclose rounding up an amount of employees scheduled when a determination by the scheduling module results in a fractional number of employees needed to address the needs of the plurality of patients, or counting employees at the fractional number based at least upon the employees' training resulting in scheduling employees in non-whole number increments, as recited by amended claim 1. Accordingly, independent claim 1 patentably distinguishes the present invention over the cited art, and Applicants respectfully request withdrawal of this rejection of claims 1.

Dependent claims 4, 6-8, 12 and 25 are also allowable at least for the reasons described above regarding independent claim 1, and by virtue of their respective dependencies upon independent claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection of dependent claims 4, 6-8, 12 and 25.

Claim Rejections – 35 U.S.C. § 103

Claims 5, 8, 14, 16, 17, 19-24 and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Hirsch* in view of *Rosse* (USPN 6,640,212) (hereinafter "*Rosse*"). As stated above, claims 5, 14, 16, 17, 19-24 and 26 have been canceled without prejudice thereby these rejections appear moot.

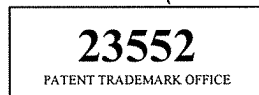
CONCLUSION

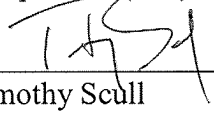
A petition for three-month extension of time is provided herewith, along with a filing fee for an RCE. It is believed that no further fees are due with this Response. However, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayment with respect to this patent application to deposit account number 13-2725.

In light of the above remarks and amendments, it is believed that the application is now in condition for allowance and such action is respectfully requested. Should any additional issues need to be resolved, the Examiner is requested to telephone the undersigned to attempt to resolve those issues.

Respectfully submitted,
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